

REMARKS

I. STATUS OF THE CLAIMS

Claims 1-69 are pending in this application, with Claims 1, 20 and 41 being written in independent form. Claims 1-8, 10-11, 13-17, 20-25, 27-28, 30-37, 39-48, 50-51, 53-55, 59-61, 63-69 stand rejected under 35 U.S.C. §102 as being anticipated by Jones (US Patent No. 6,175,822. In addition, dependent claims 9, 12, 18-19, 26, 29, 38, 49, 52, 56-58, and 62 stand rejected under 35 U.S.C. §103 also in view of Jones. Reconsideration and withdrawal of the rejections, and allowance of the claims are respectfully requested.

II. THE PENDING CLAIMS ARE PATENTABLE

Claims 1-8, 10-11, 13-17, 20-25, 27-28, 30-37, 39-48, 50-51, 53-55, 59-61 and 63-69 stand rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,175,822 to Jones ("Jones '822 patent"). In addition, dependent Claims 9, 12, 18-19, 26, 29, 38, 49, 52, 56-58, and 62 stand rejected under 35 U.S.C. §103 as being obvious over the Jones '822 patent. As discussed below, Applicants respectfully submit that the claims, as pending, are patentable over the prior art of record. Reconsideration and withdrawal of the rejections are respectfully requested.

A. Independent Claims 1, 20 And 41 Are Not Anticipated

1. A Claim Limitation Is Absent In The Prior Art Of Record

Independent Claims 1, 20 and 41 recite, *inter alia*, "wherein blocks of data are received at an initial data transfer rate which is reduced upon receipt of a predetermined amount of data...." Applicants respectfully submit that the Jones '822 patent simply does not teach or suggest this limitation.

 The Jones '822 patent discloses a network based transcription service.

Specifically, the Jones '822 patent discloses a network in which recorded speech files are streamed to a client. The client plays the recorded speech file upon receipt and a transcriptionist creates a transcript corresponding to the file.

Regarding independent claim 1, the Office Action alleges that the Jones '822 patent discloses, "a transceiver (not shown in the Fig) for receiving successive blocks of data at initial data rate which is reduced upon receipt of a predetermined amount of data, see col 3, lines 65-67, col 4, line 1, lines 4-6, col 4, lines 4-6, col 4 lines 25-27, lines 9-14, lines 26-28;...." (December 2, 2003 Office Action, at 4). The cited passages in the Jones '822 patent merely disclose a system that streams a speech signal from a networked server to a client. The passages do not disclose a transceiver receiving data at an initial data rate, wherein the data transfer rate is reduced based on a predetermined amount of data.

Furthermore, the Jones '822 patent merely discloses that a user can interact with the system to pause or stop transmission. Specifically, the Jones '822 patent discloses, "[t]he receiving end may then instruct the transmitting end to 'pause' or 'stop' playing the streamed signal, in which case the transmitting end may stop transmitting the audio file." (See, Col. 5, ln. 65 – Col. 6, ln. 1.) In contrast, transmitting blocks of data at an initial transfer rate which is reduced upon receipt of a predetermined amount of data, as recited in independent claims 1, 20, and 41 is clearly distinct from merely providing a stop/pause transmission function.

Accordingly, Applicants respectfully submit that the Jones '822 patent does not anticipate the limitations recited in independent claims 1, 20, and 41 or the claims dependent (directly or indirectly) therefrom. Therefore, Applicants respectfully submit that independent Claims 1, 20 and 41, as well as all of the claims dependent therefrom, are patentably distinct from the cited reference. Accordingly, Applicants request withdrawal of this ground of rejection.

B. Dependent Claims 9, 12, 18-19, 26, 29, 38, 49, 52, 56-58, and 62 Are Not Obvious

Applicants respectfully submit that dependent claims 9, 12, 18-19, 26, 29, 38, 49, 52, 56-58, and 62, which depend on independent claims 1, 20, and 41 are also not obvious under 35 U.S.C. §103 over the Jones '822 patent. Reconsideration and withdrawal of the 35 U.S.C. §103(a) rejections are respectfully requested.

The claims rejected under §103(a) are dependent on independent claims 1, 20, and 41. For at least the reason stated above regarding independent claims 1, 20 and 41 and the deficiencies identified above in the Jones '822 patent, Applicants respectfully submit that the asserted modifications (billing a user or transmitting a multimedia video file) of the Jones '822 patent do not render the claims obvious. Specifically, adding the ability to implement a video output or a payment process (neither of which are taught by the Jones '822 patent) do not teach or suggest, transmitting blocks of data at an initial transfer rate which is reduced upon receipt of a predetermined amount of data, as recited in Applicants' claimed invention. Furthermore, Applicants respectfully submit that the Jones '822 patent discloses no motivation that would teach or suggest this type of modification to the transcription system in the Jones '822 patent resulting in a system as recited in Applicants' pending claims.

Indeed, the Office Action concedes that: "Jones does not show the use payment process to bill the user for each received file. The process of billing a user for receiving an playing a file from a streaming server was well known in the art." (December 2, 2003 Office Action, at 5). Despite the absence of this limitation in the Jones '822 patent (or any of the prior art of record), the Office Action seeks to take the Official Notice that it was well know in the art to bill a user for receiving and playing a file from a streaming server, as well as transmit a video file for a multimedia device according to the elements recited in the independent claims and the

claims dependent therefrom. If such Official Notice is maintained, Applicants respectfully request that the Examiner substantiate these positions as provided under 37 C.F.R. §1.104(d).

Quite simply, the Jones '822 patent does not teach or suggest: (1) billing a user for receiving and playing a multimedia file, or (2) receiving and playing a video file in accordance with the limitations recited in the rejected dependent claims and independent claims 1, 20 and 41. Simply taking Official Notice that obtaining revenue for the service system or alleging that it would be obvious to give the user the privilege to watch video in addition to listening, does not provide sufficient motivation for modifying the Jones '822 patent to achieve the elements recited in the independent (and dependent) claims.

Thus, for at least the above-mentioned reasons, Applicants respectfully submit that independent claims 1, 20 and 41, and claims 2-19, 21-40 and 42-69 which depend (directly or indirectly) therefrom—are patentable over the prior art of record. Reconsideration and withdrawal of the §103 rejections are respectfully requested.

CONCLUSION

For the reasons discussed above, Applicants respectfully submit that all of the pending claims are patentable and in condition for allowance, which is respectfully requested.

In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the telephone number provided below.

Favorable consideration is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees that may be required for the timely consideration of this response under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 3037-4178.

Respectfully submitted,

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